

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JOSHUA LANCE DEESE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	06-0753-BH-M
EDWARD D. KLEINE, et al.,)	
)	
Defendants.)	

ORDER

This action is before the Court on plaintiff's motion to remand (Doc. 5), which is predicated not only on the failure of two of the defendants to join in the removal at issue but on defendants' failure to satisfy their burden to demonstrate that the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. In support of the latter contention, plaintiff's counsel has proffered an affidavit asserting that the plaintiff neither seeks nor will accept a judgment of more than \$74,900.00 in damages. In response to plaintiff's motion, the defendants, Stuyvesant Dredging Company and Bean Stuyvesant, LLC and Bean Dredging, LLC, have now consented (Docs. 8 and 9) to remand predicated on plaintiff's voluntary limitation of damages to no more than \$74,900.00 as set forth in the affidavit of Michael A. Worel, plaintiff's counsel. No reply was filed by the plaintiff which either altered in any way plaintiff's voluntary limitation of damages or disputed defendants' right to rely upon plaintiff's voluntary limitation of damages. It is therefore **ORDERED** that the plaintiff be and is hereby bound by his counsel's affidavit testimony

that the plaintiff “will not make a settlement demand exceeding \$74,900 [and] [i]n the event this case is tried, Plaintiff will not ask for nor accept an award in excess of \$74,900, including interest, costs, and attorney’s fees.” In the event plaintiff attempts to violate this stipulation by seeking in excess of \$74,900.00, whether or not he is still represented by Mr. Worel, he shall be held in contempt by this Court and appropriate sanctions shall be imposed.

In view of the above, it is **FURTHER ORDERED** that plaintiff’s motion to remand be and is hereby **GRANTED** and the Clerk of this Court is directed to take such steps as are necessary to transfer this action to the Circuit Court of Baldwin County, Alabama, from whence it was removed.

DONE this 18th day of January, 2007.

s/ W. B. Hand
SENIOR DISTRICT JUDGE